

Appln. No. 10/730,521
Amdt. Dated: November 4, 2004
Reply to Office Action dated May 5, 2004

REMARKS

The foregoing Reply and these remarks are in response to the Office Action dated May 5, 2004. A three month Request for Extension of Time is filed herewith. Please charged Deposit Account No. 50-2884 in the amount of \$490 pursuant to 37 CFR §1.17(a)(3).

At the time of the Office Action, claims 1-8 were pending in the application. Claim 5 was rejected under 35 U.S.C. § 112, second paragraph. Claims 1-8, were rejected under 35 U.S.C. § 102(b). New claims 9-13 have been added. The rejections are set out in more detail below.

I. Claim rejections under 35 U.S.C. § 112

Claim 5 has been amended for greater clarity. Applicants therefore respectfully request that the claim rejection of claim 5 be withdrawn.

II. Claim Rejections on the Art

Prior to addressing the Examiner's rejections on the art, a brief review of Applicants' invention is appropriate. The invention concerns a gaming table in which a game outcome determining device, other than a card game, generates a random outcome for the game. The game outcome determining device relies upon a manual operation to produces the random outcome in the game without automation. The manual operation is initiated by direct physical interaction of a dealer with the device. Player terminals located at the gaming table include player user interfaces to permit players to select possible outcomes of the game and make wagers. A processor compares the player wagers to the random outcome to determine winning wagers. Once a winning wager is identified, the processor credits winning proceeds directly to the player terminals.

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Claims 1-8, were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,770,533 to Franchi ("Franchi"). Specifically, the Examiner makes reference to Fig. 14 of Franchi which shows an automated Craps table. According to the Examiner, Franchi teaches a game outcome determining device (dice rolled in a craps game), where the dice are operated by a dealer, a processor, player console and dealer console. Applicants respectfully disagree with the Examiner's contention in this regard.

Franchi fails to disclose a table game in which the game outcome determining device has a manual operation initiated by a dealer and the manual operation produces the random outcome without automation. These features, which are recited in amended claims 1 and 5, are clearly absent in Franchi.

In a game of Craps, it is the player, rather than the dealer, who rolls a pair of dice. The dice are not rolled by a dealer, as suggested by the Examiner. This fact is well known in the gaming art and will be readily appreciated by anyone familiar with the game of Craps. In this regard, the game of Craps is very much distinguishable from a dealer-determined game as is presently recited in amended claims 1 and 5. Accordingly, the automated Craps game in Franchi would not suggest to one skilled in the art that the game outcome determining device (dice) disclosed in that reference is manually operated by the dealer.

Applicants' invention provides a realistic game play where only a trusted dealer is able to operate the outcome determining device, in combination with electronic wagering and crediting interaction with the players. Amended claim 1 emphasizes the above distinction clearly in the line that states "said at least one game outcome determining device having a manual operation initiated by at least one direct physical interaction of a dealer." Claim 5 similarly emphasizes this distinction to the extent that it recites the step of "determining a random outcome for a game having a manual operation initiated by at least one direct physical interaction of a dealer with a game outcome determining device, said manual operation producing said random outcome without automation." Franchi does not teach these limitations.

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A game such as Craps, which requires active player participation, teaches away from the present invention. To the extent that Franchi does disclose a dealer operated game, the outcome determining devices disclosed therein are clearly automated. For example, Franchi teaches that roulette tables can be fully automated and that all such automation should be used. See column 4, lines 25-26, and lines 37-38 that refer to "an automated roulette table". An automated roulette table is understood in the art to mean one in which the wheel is enclosed, for example by a clear plastic dome. The wheel is automatically spun by a drive mechanism. To determine the result, the ball is dispensed automatically by another mechanism and the winning number is read by a sensor. See also column 14 line 1 et seq, where it is stated that the wheel in Franchi is provided with a system of sensors such that when the ball lands in a position "the sensor indicates this position to the individual game computer". Nowhere does Franchi teach the combination of (1) manual dealer initiated outcome determining devices that operate without automation and (2) automated control over the wagering process and payout of winnings.

The Examiner contends that the limitations in Applicants' claims which refer to the outcome determining device are recitations that describe an intended use of the device and do not further limit the apparatus in the claims. In response, Applicants have amended the language in claims 1 and 5 to recite the structural features of the invention with greater clarity. Thus the claim explicitly disclaims automation in the operation of the outcome determining device and excludes the possibility of interpreting the physical interaction as the pressing of a button to start automation

The examiner also mentions Big Wheel in Franchi. However, Franchi falls very short of an enabling disclosure of the Big Wheel itself. It would be readily implied, from the aim of Franchi to reduce dealer interaction with a game, that Franchi would contemplate a fully automated Big Wheel as distinct from the present invention. For the foregoing reasons, Applicants respectfully submit that the claimed invention is not anticipated by Franchi.

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III. Double Patenting

Claims 1-8 were rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-8 of U.S. Patent No. 6,659,866. In accordance with 37 C.F.R. §1.130, please find the enclosed terminal disclaimer which complies with 37 C.F.R. 1.321(c) and overcomes the provisional rejections. Please charge Deposit Acct. 50-2884 in the amount of \$55 pursuant to 37 CFR §1.20(d). Applicants therefore respectfully request that the rejection be withdrawn.

Applicants have amended the claims to which the examiner has objected, and it is believed that all claims are in condition for allowance. Nevertheless, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance.

Respectfully submitted,

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